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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

██████████  
██████████  
██████████  
██████████

DECISION

██████████

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 04, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephonic hearing was held on June 11, 2015, at Montello, Wisconsin. At the request of petitioner, a hearing set for May 21, 2015 was rescheduled for June 11, 2015. At the request of petitioner, the record was held open until July 9, 2015 for the submission of a responsive letter by ██████████ PhD and/or ██████████ MD. Neither petitioner's representative nor his doctors submitted any responsive letter to DHA by July 9, 2015 or even by the date of this decision.

The issue for determination is whether the Department correctly denied the petitioner's prior authorization request for genetic testing for FG Syndrome because petitioner did not establish the medical necessity of that genetic test.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
██████████  
██████████  
██████████

Representative:

██████████  
██████████  
██████████

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: ██████████ M.D., chief medical officer  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner is a 16 year old resident of Marquette County who resides with his parents and his siblings.
2. The petitioner has a complex medical history, and is diagnosed with intellectual disability, cardiac defect, hearing loss, and dysmorphic features. Petitioner has undergone many surgeries.
3. On or about March 16, 2015, the petitioner's medical provider, University of Wisconsin Hospital and Clinics requested on behalf of the petitioner prior authorization for genetic testing for FG Syndrome for diagnostic purposes at a requested cost of \$1,850. See Exhibit 2.
4. The Department sent a March 24, 2015 notice to the petitioner denying the petitioner's request for genetic testing for FG Syndrome as not medically necessary.
5. In her June 3, 2015 written argument, the Department's medical officer, [REDACTED], MD provided the following reasons for the denial of petitioner's request for genetic testing for FG Syndrome: a) **the detection rate for FG Syndrome is at best 13% signifying that over 80% of the time this condition is present, the genetic test will not detect it. As a result, a negative test would not rule out the syndrome;** b) a positive genetic test would not help to predict the clinical course for the petitioner or identify particular monitoring or testing that would be indicated; c) Wisconsin Medicaid and BadgerCare consider genetic testing medically necessary when the testing yields result that can be used specifically to develop a clinically useful approach or course of treatment, or to cease unnecessary treatment or monitoring.

## DISCUSSION

The petitioner is 16-year-old boy diagnosed with intellectual disability, cardiac defect, hearing loss, and dysmorphic features. His parents seek prior authorization for genetic testing of Joseph for FG Syndrome. As in any prior authorization request, petitioner must establish by the greater weight of the credible evidence, among other things, the medical necessity of the service, the appropriateness of the service, the cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. Wis. Adm. Code, § DHS 107.02(3)(e)1.,2.,3.,6. and 7. "Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
  2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
  3. Is appropriate with regard to generally accepted standards of medical practice;
  4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
  5. **Is of proven medical value or usefulness** and, consistent with s. HFS 107.035, is not experimental in nature;
  6. Is not duplicative with respect to other services being provided to the recipient;
  7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
  8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and

9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.  
(Emphasis added).  
Wis. Admin. Code, § DHS 101.03(96m).

The petitioner's representative and mother, [REDACTED], alleged that the genetic testing for FG would be helpful to confirm petitioner's diagnosis, and might be helpful regarding prognosis. In her April 7, 2015 letter, [REDACTED] PhD, certified genetic counselor, asserted that "results from this test could minimize additional diagnostic procedures." However, petitioner was unable to establish with any evidence the reliability of such genetic test results, even if the genetic testing were approved for payment by MA.

Forward Health guidelines for genetic testing state:

Wisconsin Medicaid and BadgerCare consider genetic testing medically necessary when the testing yields result that can be used specifically to develop a clinically useful approach or course of treatment or to cease unnecessary treatment or monitoring. Clinically useful test allow providers to treat current symptoms significantly affecting a member's health or to manage the treatable progression of an established disease.

The petitioner did not establish with any evidence that the requested genetic test results would be used to develop a clinical approach, course of treatment, or cease unnecessary treatment or monitoring. In her June 3, 2015 written argument, [REDACTED] asserted persuasively that: "Tests will not be reimbursable for Wisconsin Medicaid and BadgerCare Plus members if the sole outcome would be labeling the disorder or categorizing symptoms that cannot or should not be treated." However, even more convincing to support the denial of the genetic test was the Department's assertion that the "the detection rate for FG Syndrome is at best 13% signifying that over 80% of the time this condition is present, the genetic test will not detect it. As a result, a negative test would not rule out the syndrome."

During the hearing or while the record was held open, neither the petitioner nor any of his doctors sent any response or evidence to DHA to refute the very low 13% reliability of the requested genetic test, or to refute any other reason for the Department's case for denial. As such, the requested genetic test is much more likely (87%) that the FG Syndrome will not be detected, and thus no reliable conclusion can be drawn from either a negative or positive result. See Findings of Fact # 5 above. Accordingly, based upon the above, I must conclude that the Department correctly denied the petitioner's prior authorization request for genetic testing for FG Syndrome because petitioner did not establish the medical necessity or the reliability of that genetic test.

### **CONCLUSIONS OF LAW**

The Department correctly denied the petitioner's prior authorization request for genetic testing for FG Syndrome because petitioner did not establish the medical necessity or the reliability of that genetic test.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same is hereby Dismissed.



## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

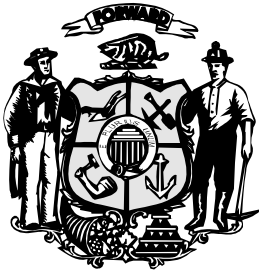
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 15th day of September, 2015

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\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



## State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 15, 2015.

Division of Health Care Access and Accountability